IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 3687 of 1995

Between:

The Management of Singareni Collieries Co., Ltd., Ramakrishnapur Division-I, PO: Ramakrishnapur, Rep. by the General Manager, Ramakrishnapur Area Adilabad Dist.

..... PETITIONER

AND

1 The Presiding Officer, Industrial Tribunal-I,
Chandra Vihar, M.J.Road, Hyderabad
2 The Workmen of Singareni Collieries Co., Ltd.,Ramakrishnapur Division-I,

PO:Ramakrishnapur, rep. by the General Secretary, Singareni Ghani

Karmika Sangh, Ramakrishnapur - 504 301, Adilabad Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or a writ particularly one in the nature of WRIT OF CERTIORARI after calling for the records from the first respondent in ID no.46 of 1989 and quash the Award passed therein dt.10/11/1993, and pass such further or other orders as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.K.SRINIVASA MURTHY

Counsel for the Respondent No.1: G.P for Labour

Counsel for the Respondent No.2: MR.S.SRINIVASA SHARMA

The Court made the following:

ORDER:

This writ petition is filed by the Management of Singareni Collieries Company Limited assailing the award passed by the Industrial Tribunal in I.D.No.46 of 1989, dated 10.11.1993. The Government of India referred the following matter to the Industrial Tribunal for adjudication by an order No.L-22012/(48)/84-III.B/IR (C-II), dated 27.06.1989:

> "Whether the action of the Management of Singareni Collieries Co.Ltd., Ramakrishnapur Division-I in dismissing S/Sri Nerla Jaggaiah and Bogam Narayana, Coal Fillers from service w.e.f. 1-10-83 and 21-9-83 respectively, is justified? If not, to what relief the concerned workman is entitled?"

2. The Tribunal, after adjudication of the matter held that the domestic enquiry conducted by the Management was fair and proper. But, finally recorded the finding that the termination is invalid and accordingly passed an award directing reinstatement of the workmen with full back wages. Against the said award, the present writ petition has been filed.

3. The learned counsel for the petitioner-Management submits that the findings recorded by the Tribunal are only illegal and contrary to law. When the domestic enquiry was held fair and proper, the Tribunal ought not to have again went into the evidence and find fault with the order of removal. Such a procedure is contrary to the provisions of the Industrial Disputes Act, and therefore, she submits that the award is liable to be set aside.

4. On the other hand, the learned counsel for the respondent-workmen submits that it is within the provisions of the Tribunal to adjudicate the matter and grant appropriate relief, in case the order of removal was held to be unjustified and hence the award is quite legal and valid and the same is liable to be sustained.

5. It is not in dispute that the present award is challenged by the Singareni Collieries Company. The Tribunal, in the impugned award, clearly held that the

enquiry conducted by the Management was fair and proper. But, however, the Tribunal did not record any finding as to whether the charges framed against the petitioner were held proved even basing on any perverse finding. But in the absence of that, the Tribunal recorded that the order of removal was not justified, even though such an order could be justified by adducing appropriate evidence. But in the instant case, after holding that the enquiry conducted by the Management was fair and proper, the Tribunal again went into the evidence and found that the order of removal is not sustainable. In view of the long lapse of time and the fact that the Tribunal has not only granted reinstatement, but also granted back wages, I am of the considered view that the ends of justice would met if the back wages are denied to the workmen as there is no evidence that the employee-workmen remained unemployee in spite of their efforts. Under those circumstances, I find that while affirming the direction relating to reinstatement, set aside the order relating to back wages from the date of removal till the date when the award became enforceable.

6. The writ petition is accordingly disposed of. No costs.

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G.BIKSHAPATHY, J

Dated 07th October, 2004.

YCR

To

1 The Presiding Officer Industrial Tribunal-I,
Chandra Vihar, M.J.Road, Hyderabad
2 The General Secretary, Singareni Collieries Co., Ltd.,

Ramakrishnapur Division-I , PO:Ramakrishnapur, Singareni Ghani,

Karmika Sangh, Ramakrishnapur - 504 301, Adilabad Dist.

3. 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad.(OUT)

4. 2 C.D. copies.